

Customer No. 24498
Attorney Docket No. PU020392
Office Action Date: November 13, 2008

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Amendments to the Drawing:

The attached one (1) sheet of drawing including Figure 1 has been submitted to be a formal drawing. No amendments have been made to this drawing. This one sheet replaces the correspondingly numbered sheet including Figure 1 presently on file in this application.

Attachments:

Replacement Sheet 1 including Figure 1

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Remarks/Arguments

In the non-final Office Action dated November 13, 2008, it is noted that claims 1-24 are pending; that an objection has been raised with respect to the drawings; that claims 1, 11, and 16 stand rejected under 35 U.S.C. §101; and that claims 1-24 stand rejected under 35 U.S.C. §103.

By this response, claims 1, 11, and 16 have been amended. These claims have been amended to define and clarify further an aspect of the subject matter defined therein. Support for these changes is found in the original specification at least at paragraphs [0006], [0008], [0009, and [0017]. In addition, claim 11 has been amended to be in an apparatus form including a number of different means with their respective functions as shown in Figure 1. These amendments are believed to be proper and justified. No new matter has been added.

Cited Art

The following references have been cited as prior art in the present Office Action: U.S. Patent 6,735,699 to Sasaki (hereinafter referenced as "*Sasaki*"), and an article by Jian Zhao entitled, "*Applying Digital Watermarking Techniques To Online Multimedia Commerce*", published in the Proceedings of the International Conference on Imaging Science, Systems, and Applications (CISSA97) as of June 30, 1997 (hereinafter referenced as "*Zhao*").

Objection To The Drawings

The drawings have been objected to under 37 C.F.R. 1.81 as lacking sufficient quality to permit examination. A replacement sheet, including a formal drawing of Figure 1, has been submitted with this amendment. It is believed that the quality of the attached drawing is sufficient to permit further examination of this application. In view of the amendment to the drawing, the grounds of this objection are believed to have been obviated. Withdrawal of this objection is respectfully requested.

Rejection Of Claims 1, 11, and 16 Under 35 USC §101

Claims 1, 11, and 16 stand rejected under 35 U.S.C. §101 as being directed to non-statutory subject matter. This rejection is respectfully traversed.

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The basic premise of this rejection together with the analysis of the claims ignores the very nature of the claims that should be obvious upon a plain language reading of the claims. On page 3 of the present Office Action, it is stated that, "the claims are drawn to a form of signal." This faulty premise is then used to develop an argument that, "[t]he claims fail to place the invention squarely within on *[sic]* statutory classification."

Claims 1 and 16 are directed to methods as evidenced by the second word of their respective preambles. Each claim includes a number of method operations which result at least in watermarking digital media data at a user device. Claim 11 is directed to a user device that is comprised of a number of separate elements, the combination of which is used to watermark a digital media data signal.

From a plain language reading of these claims, it is unmistakable that the claims are directed either to a method or an apparatus. Both method and apparatus are statutory classes of an invention under the patent laws. Although signals are used in the method and apparatus instantiations of this invention, it should be obvious that the method operations and the means of the apparatus merely operate on the signals by receiving, decrypting, decoding, generating, and embedding operations, for example, to achieve the result of the invention. If this were otherwise, then the same analysis employed here would have been invoked to cause the Sasaki patent used as prior art herein and many other watermarking patents and applications to be directed unpatentable as being directed to non-statutory subject matter.

For all the reasons set forth above, it is submitted in that claims 1, 11, and 16 are directed properly to either method or apparatus classes of statutory subject matter. Thus, claims 1, 11, and 16 are believed to be proper under 35 U.S.C. §101. Withdrawal of this rejection is respectfully requested.

Rejection Of Claims 1-24 Under 35 USC §103

Claims 1-24 stand rejected under 35 U.S.C. §102 as being unpatentable over Sasaki in view of Zhao. In view of the amendment to the independent claims, this rejection is respectfully traversed.

Claim 1 is an independent method claim from which claims 2-10 ultimately depend; claim 11 is an independent method claim from which claims 12-15 ultimately depend; and claim 16 is an independent method claim from which claims

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17-24 directly depend. Claims 11 and 16 include limitations similar to those found in claim 1. Thus, while the remarks below will be focused on claim 1, they are intended to apply equally to claims 11 and 16.

Neither Sasaki nor Zhao, either separately or in combination, teaches, shows, or suggests the limitation defined in claim 1 that calls for, "generating a watermark signal comprising a digital media data content-related information and a user device specific indicator, said digital media data content related information selected from a group consisting of said uncompressed data, an audio portion of said uncompressed data, and a video portion of said uncompressed data, such that said watermark signal exhibits a relatively changed characteristic pattern over at least a segment of the uncompressed data into which the watermark signal is embedded."

Contrary to the express definition in the claim, Sasaki and Zhao appear to teach a watermark that exhibits a relatively stable characteristic pattern for a given user device. Such a stable characteristic pattern is similar to, and cumulative over, the watermarking signals of the prior art described in paragraph [0006] of the present application. Sasaki appears to teach that the user embeds the license for the work, together with the encoder ID into the previously unlicensed work. Zhao appears to teach that the client can embed the client's identity information into the decrypted and rendered image. In both Sasaki and Zhao, the watermark exhibits a relatively stable characteristic pattern, because it is based on the same, static information, namely, any one of the client ID, the encoder ID, and the license received from the digital rights center. Since none of this information changes over the course of the particular digital media data content for which the license is granted, it can only be concluded that the combination of Sasaki and Zhao fails to teach, show, or suggest that, "said watermark signal exhibits a relatively changed characteristic pattern over at least a segment of the uncompressed data into which the watermark signal is embedded", as defined in claims.

For at least the reasons discussed above, applicants submit that claim 1 and the claims dependent thereon would not have been obvious to a person of ordinary skill in the art upon a reading of Sasaki and Zhao, either separately or in combination. Because the similarity of the limitations of claims 11 and 16 to those in claim 1, it is also submitted that claims 11 and 16 in the claims dependent thereon would not have been obvious to a person of ordinary skill in the art upon a

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reading of Sasaki and Zhao, either separately or in combination. Therefore it is believed that claims 1-9 are allowable under 35 U.S.C. §103. Withdrawal of this rejection is respectfully requested.

Conclusion


In view of the foregoing, it is respectfully submitted that all the claims pending in this patent application are in condition for allowance. Entry of this amendment, reconsideration of this application, and allowance of all the claims are respectfully solicited.

If, however, the Examiner believes that there are any unresolved issues requiring adverse final action in any of the claims now pending in the application, it is requested that the Examiner contact the applicants' attorney at (609) 734-6815, so that a mutually convenient date and time for a telephonic interview may be scheduled for resolving such issues as expeditiously as possible.

In the event there are any errors with respect to the fees for this response or any other papers related to this response, the Director is hereby given permission to charge any shortages and credit any overcharges of any fees required for this submission to Deposit Account No. 07-0832.

Respectfully submitted,
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